

rule corresponding to this section" (i. e. order XVI, rule 13) " and in *Khadarsaheb v. Chotibibi* (1), and *Vylianàdàyyan v. Sitaràmàyyan* (2) orders making persons defendants on their own application under s. 32 were affirmed. A similar order was made by Bayley, J., in *Ahmedbhoy Hubibhoy v. Vulleebhoy Cassumbhoy* (3), where that learned Judge refers to *Campbell v. Holyland* (4), where after decree in a foreclosure suit Jessel, M. R., made the purchasers after decree of the mortgagee's interest parties defendants upon their application, made *ex parte*; and also, upon the same application made a purchaser of the mortgagee's interest party defendant." We entirely agree with this judgment and have no hesitation in holding that a Court may, in the exercise of its discretion, add a party to a suit upon his own application.

K. M. C.

*Rule discharged.**Before Mr. Justice Mitter and Mr. Justice Grant.*

HUKUM CHAND ASWAL (DECREE-HOLDER) v. GYANENDRA CHUNDER LAHIRI (MINOR) BY HIS GUARDIAN ABHAI CHUNDER BAGCHI (JUDGMENT-DEBTOR).*

1886
RABBABA
KHANUM
v.
NOORJEHAN
BEGUM.

1886
April 1.

Foreign Court, Decree of—Execution of decree—Jurisdiction—Court of Cooch Behar, Decree of.

The Courts of British India have no power to execute a decree passed by the Court of a Foreign State.

A decree of the Civil Court of Cooch Behar having been transferred for execution to the District of Rungpore: *held* that the Courts of Rungpore had no jurisdiction to execute the decrees.

THIS was a proceeding in execution of a decree of the Civil Court of Cooch Behar. The decree-holder had applied for and obtained a certificate for the execution of the decree within the district of Rungpore. The certificate was sent to the Munsiff of Gaibanda, who dismissed the application on the ground that the decree was barred by time. The Subordinate Judge concurred in that order.

* Appeal from Appellate Order No. 442 of 1885, against the order of Baboo Hemango Chunder Bose, Rai Bahadur, Subordinate Judge of Rungpore, dated the 3rd of October 1885, affirming the order of Baboo Kristadhan Chowdhuri, Rai Bahadur, Munsiff of Gaibanda, dated the 3rd of August 1884.

(1) I. L. R., 8 Bom., 616.

(3) I. L. R., 8 Bom., 323.

(2) I. L. R., 5 Mad., 52.

(4) L. R., 7 Ch. Div., 166.

1886

An appeal was preferred to the High Court.

HUKUM
CHAND
ASWAL
v.

Baboo *Durga Mohun Das* for the appellant.

GYANENDRA
CHUNDER
LAHIRI,

Baboo *Grija Sunkar Mozoomdar* for the respondent.

The judgment of the Court (MITTER and GRANT, JJ.) was as follows:—

MITTER, J.—This is an appeal against the decisions of the lower Courts passed in execution of a decree which was transferred from the Civil Court in Cooch Behar.

The lower Courts have decided that the decree is barred by limitation, but we are of opinion that they had no jurisdiction to execute the decree in question. There is no provision in the Code of Civil Procedure under which a Court in British India is competent to execute a decree transferred to it by any Court in a Native State out of British India.

That being so, the decree-holder, who is the appellant before us, has mistaken his remedy. The application for execution should have been dismissed on the ground that the Courts in British India have no power to execute a decree passed by the Courts of a Foreign State.

The appeal will therefore be dismissed with costs.

K. M. C.

Appeal dismissed.

Before Mr. Justice Mitter and Mr Justice Grant.

1886

April 8.

PRANNATH SHARMA AND ANOTHER (PLAINTIFFS) v. MADHU KHULU AND OTHERS (DEFENDANTS).*

Landlord and Tenant—Suit for ejectment—Cause of action—Landlords' title, Denial of—Written statement.

P and *R* brought a suit for ejectment on the allegation that their tenants had failed to come to a settlement in respect of a certain *jote*, and that a notice to quit had thereupon been served on them. The defendants (tenants) in their written statement denied the landlords' title. The lower Courts found that the *jote* belonged to the plaintiffs, and the defendants had been and still were in possession of the same as tenants; but dismissed the suit on the ground that the service of notice had not been proved.

Held (on second appeal) that, inasmuch as the cause of action must be based on something that accrued antecedent to the suit, the denial by the

* Appeal from Appellate Decree No. 2095 of 1885 against the decree of G. G. Dey, Esq., Judge of Pubna and Bograh, dated the 13th of August 1885, affirming the decree of Baboo Bepin Behari Mukherji, Munsiff of Pubna, dated the 2nd of April 1885.